IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO. 1218 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

G.S. Godbole for the appellant.

Mr. K.Y. Mandlik for respondents 1 to 11.

CORAM : ANOOP V. MOHTA, J.
DATE : 02.12.2005

. Heard. The Appellate Court has reversed the finding and decree, whereby the trial Court has granted injunction and restrained the defendants and their agents, servants from interfering in plaintiffs land in Gut No. 110. This was the suit for simplicitor injunction. Considering the material on record, including Commissioner's report, which remained unchallenged. The appellate Court comes to a clear finding in reference to the land in question, as

referred in para 16,17 and 18 and that findings resulted into observation that the appellants- plaintiffs failed to prove that 27-R land from gut No.110 was acquired by the Government for the purpose of Belewadi-Potegaon road and further plaintiffs failed to prove that the disputed portion is part and parcel of gut No.110, of which he is owner and is in possession, as the appellants-plaintiffs failed to produce on record supporting documents. Thus, according to me this itself is sufficient to dismiss the present Second Appeal. There is no declaration of ownership to the property in question, the plaintiff is at liberty to take appropriate legal remedy for such declaration, if any. The view taken by the appellate Court cannot be stated to be perverse or contrary to the record. This view is possible.

. Second Appeal is dismissed.

(ANOOP V.MOHTA,J.]

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 994 OF 2004.
IN
SECOND APPEAL NO. 1218 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

---

G.S. Godbole for the appellant.

Mr. K.Y. Mandlik for respondents 1 to 11.

CORAM : ANOOP V. MOHTA, J.

DATE : 02.12.2005

. In view of dismissal of Second Appeal No.1218 of 2005, civil application is accordingly disposed of.

(ANOOP V.MOHTA,J.]